

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Mt. Sterling Post Office  
Mt. Sterling, Wisconsin

Docket No. A2012-89

ORDER AFFIRMING DETERMINATION

(Issued March 8, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

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<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 30, 2011, Judith E. Hansen (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Mt. Sterling, Wisconsin post office (Mt. Sterling post office).<sup>2</sup> The Final Determination to close the Mt. Sterling post office is affirmed.<sup>3</sup>

## II. PROCEDURAL HISTORY

On December 19, 2011, the Commission established Docket No. A2012-89 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>4</sup>

On December 15, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>5</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>6</sup>

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<sup>2</sup> Petition for Review received from Judith E. Hansen regarding the Mt. Sterling, Wisconsin post office 54645, November 30, 2011 (Petition).

<sup>3</sup> The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

<sup>4</sup> Order No. 1054, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 19, 2011.

<sup>5</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, December 15, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Mt. Sterling, Wisconsin Post Office and Extend Service by Rural Route Service (Final Determination).

<sup>6</sup> United States Postal Service Comments Regarding Appeal, January 24, 2012 (Postal Service Comments).

Petitioner filed a participant statement supporting her Petition.<sup>7</sup> On February 8, 2012, the Public Representative filed comments.<sup>8</sup>

### III. BACKGROUND

The Mt. Sterling post office provides retail postal services and service to 47 post office box customers. Final Determination at 2. No delivery customers are served through this post office. The Mt. Sterling post office, an EAS-55 level facility, provides retail service from 8:30 a.m. to 12:00 p.m. and 1:15 p.m. to 3:45 p.m., Monday through Friday, and 7:45 a.m. to 9:30 a.m. on Saturday. Lobby access hours are 8:00 a.m. to 4:00 p.m., Monday through Friday, and 7:30 a.m. to 9:45 a.m. on Saturday. *Id.*

The postmaster position became vacant on October 19, 2007 when the Mt. Sterling postmaster was promoted. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2, 10. Retail transactions average 11 transactions daily (12 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$19,876 in FY 2008; \$19,521 in FY 2009; and \$18,119 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$24,158 annually. *Id.* at 8-9.

After the closure, retail services will be provided by the Gays Mills post office located approximately 5 miles away.<sup>9</sup> *Id.* at 2. Delivery service will be provided by rural route service through the Gays Mills post office. The Gays Mills post office is an EAS-16 level post office, with retail hours of 8:45 a.m. to 11:30 a.m. and 12:30 p.m. to 4:15 p.m., Monday through Friday, and 10:00 a.m. to 11:00 a.m. on Saturday. One-hundred-twenty-eight (128) post office boxes are available. *Id.*

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<sup>7</sup> Participant Statement received from Judith E. Hansen, January 19, 2012 (Participant Statement).

<sup>8</sup> Comments of the Public Representative, February 8, 2012 (PR Comments).

<sup>9</sup> MapQuest estimates the driving distance between the Mt. Sterling and Gays Mills post offices to be approximately 5.39 miles (8 minutes driving time).

Retail Services will also be available at the Seneca post office located approximately 4 miles away.<sup>10</sup> *Id.* The Seneca post office is an EAS-11 level post office, with retail hours of 8:30 a.m. to 11:30 a.m. and 12:30 p.m. to 4:00 p.m., Monday through Friday, and 8:30 a.m. to 9:15 a.m. on Saturday. Forty (40) post office boxes are available. *Id.* The Postal Service will continue to use the Mt. Sterling name and ZIP Code. *Id.* at 8, Concern No. 3.

#### IV. PARTICIPANT PLEADINGS

*Petitioner.* Petitioner opposes the closure of the Mt. Sterling post office. Petitioner contends that rural route service will not provide Mt. Sterling residents with the required maximum degree of regular and effective postal services. Petition at 1. She asserts that rural delivery would be an inconvenience for many Mt. Sterling residents, and a particular hardship for its elderly residents. Participant Statement at 3. Petitioner contends that the Mt. Sterling post office is being closed solely for financial reasons. Petition at 1; Participant Statement at 1. She questions the Postal Service's calculation of economic savings since the OIC is not salaried, and receives no benefits. Participant Statement at 2.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Mt. Sterling post office. Postal Service Comments at 2. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the Mt. Sterling community; (3) the economic savings expected to result from discontinuing the Mt. Sterling post office; and (4) the impact on employees. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Mt. Sterling post office should be affirmed. *Id.* at 2.

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<sup>10</sup> MapQuest estimates the driving distance between the Mt. Sterling and Seneca post offices to be approximately 4.2 miles (6 minutes driving time).

The Postal Service explains that its decision to close the Mt. Sterling post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Mt. Sterling community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, the effect on the Mt. Sterling community, economic savings, and the effect on postal employees. *Id.* at 14.

*Public Representative.* The Public Representative concludes that the Postal Service has followed applicable procedures, the decision to close the Mt. Sterling post office is supported by substantial evidence, and the decision is not arbitrary or capricious. PR Comments at 2-3. The Public Representative contends that the Postal Service's calculation of economic savings is flawed. *Id.* at 3. He states that the savings related to postmaster salary and benefits are overstated as the OIC's pay rate is lower than that of a postmaster, and the OIC does not earn benefits. The Public Representative also states that the Post Office Survey Sheet indicates that the OIC will return to her regular position, in which case there will be minimal salary and benefits savings. The Public Representative asserts that the Postal Service has underestimated the cost of providing rural carrier service to Mt. Sterling residents. *Id.*

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

### A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On June 13, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Mt. Sterling post office. Final Determination at 2. A total of 47 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 30 questionnaires were returned. On June 28, 2011, the Postal

Service held a community meeting at Mount Sterling Village Hall to address customer concerns. Thirty (30) customers attended. *Id.*

The Postal Service posted the proposal to close the Mt. Sterling post office with an invitation for comments at the Mt. Sterling, Seneca, and Gays Mills post offices from July 14, 2011 through September 14, 2011. Final Determination at 2. The Final Determination was posted at the same three post offices from October 27, 2011 through November 29, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

*Effect on the community.* Mt. Sterling, Wisconsin is an incorporated community located in Crawford County, Wisconsin. Administrative Record, Item No. 16.<sup>11</sup> The community is administered politically by the Mount Sterling Town Council. Police protection is provided by the Crawford County Police Department. Fire protection is provided by the Seneca Fire Department. The community is comprised of farmers, the self-employed, and retirees. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

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<sup>11</sup> Administrative Record Item No. 16, Community Fact Sheet, states that Mt. Sterling is an unincorporated community and that police protection is provided by the Prairie du Chien Police Department. Petitioner corrects this information in her Participant Statement. Participant Statement at 2-3. The Postal Service accepts Petitioner's corrected information in its comments. *See* Postal Service Comments at 8.

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Mt. Sterling community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Mt. Sterling post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 8.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

*Effect on employees.* The Postal Service states that the Mt. Sterling postmaster was promoted on October 19, 2007 and that an OIC has operated the Mt. Sterling post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC will return to her regular position and that no other Postal Service employee will be adversely affected. Administrative Record Item No. 15.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Mt. Sterling post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on postal services provided to Mt. Sterling customers. Postal Service Comments at 5. It asserts that customers of the closed Mt. Sterling post office may obtain retail services at the Gays Mills post office located 5 miles away, or at the Seneca post office located 4 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the Gays Mills post office. The Mt. Sterling post office box customers may obtain Post Office Box service at the Gays Mills post office, which has 128 boxes available, or at the Seneca post office, which has 40 boxes available. *Id.*

For customers choosing not to travel to the Gays Mills post office, the Postal Service explains that retail services will be available from the carrier. Postal Service



Comments at 5. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioner contends that rural route service will not provide Mt. Sterling residents with the required maximum degree of regular and effective postal services. Petition at 1. She asserts that rural delivery would be a particular hardship for elderly residents. Participant Statement at 3. The Postal Service responds that rural route service will provide the Mt. Sterling residents with the same degree of regular and effective postal services as they now receive. Postal Service Comments at 5-6.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$24,158. Final Determination at 9. It derives this figure by summing the following costs: postmaster salary and benefits (\$25,205) and annual lease costs (\$4,920), minus the cost of replacement service (\$5,967). *Id.* at 8-9.

The Public Representative contends that the Postal Service's calculation of economic savings is flawed. PR Comments at 3. He states that the savings related to postmaster salary and benefits are overstated as the OIC's pay rate is lower than that of a postmaster, and the OIC does not receive benefits. The Public Representative also contends that if the OIC returns to her regular position, there will be minimal salary and benefits savings. The Public Representative asserts that the Postal Service has underestimated the cost of providing rural carrier service to Mt. Sterling residents. *Id.*

The Postal Service estimates that carrier service would cost the Postal Service substantially less than maintaining the Mt. Sterling post office and would still provide regular and effective service. Postal Service Comments at 9-10. The Mt. Sterling post office postmaster was promoted on October 19, 2007. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, will return to her duties at a nearby post office. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket

No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Mt. Sterling post office has been staffed by an OIC for more than 4 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

*Section 101(b).* Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner alleges that the Postal Service is closing the Mt. Sterling post office solely for economic reasons. Petition at 1.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Mt. Sterling post office (revenues declining and averaging only 11 retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. Final Determination at 2.

The Postal Service did not violate the prohibition in section 101(b) on closing the Mt. Sterling post office solely for operating at a deficit.

## VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Mt. Sterling post office is affirmed.<sup>12</sup>

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<sup>12</sup> See footnote 3, *supra*.

*It is ordered:*

The Postal Service's determination to close the Mt. Sterling, Wisconsin post office is affirmed.

By the Commission.

Ruth Ann Abrams  
Acting Secretary

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Mt. Sterling post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster was promoted on October 19, 2007. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC has been in place for more than 4 years. Given this extended period of time, and the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Mt. Sterling. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Mt. Sterling, Wisconsin and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for more than 4 years, since October 2007, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Mt. Sterling post office and should be remanded.

Nanci E. Langley